

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED
JUL 02 2010
WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By Deputy Clerk

AMANDA FEW,)
)
Plaintiff,)
v.)
)
THE UNITED STATES OF AMERICA,)
Ex rel, THE DEPARTMENT OF)
HEALTH AND HUMAN SERVICES,)
INDIAN HEALTH SERVICE,)
CHOCTAW NATION INDIAN)
HEALTH CENTER,)
)
Defendant.)

No. CIV 10 - 233 - SPS

COMPLAINT

COMES NOW the Plaintiff, Amanda Few, by and through her attorneys of record, Mark Edwards and Trevor J. Furlong of the Edwards Law Firm, and for her claims against the United States of America, *ex rel*, The Department of Health and Human Services, Indian Health Service, Choctaw Nation Indian Health Center to be known in this and all future pleadings as the "Choctaw Nation Health Center" alleges and states the following:

JURISDICTION

1. This is an action for damages resulting from personal injury and the relief arising from a medical malpractice tort claim.
2. Jurisdiction of this Court is founded upon 28 U.S.C. §1331 and 42 U.S.C. §2000E-5(f) and the pendant jurisdiction of this Court.
3. Venue of this Court is invoked pursuant to 28 U.S.C. §1391 and 42 U.S.C. §2000E-5(f) (3).

4. The Plaintiff timely filed her Claim for Damage, Injury, or Death by sending said Tort Claim Notice on October 13, 2009 to the Department of the Interior for The Bureau of Indian Affairs and same was received on October 22, 2009. Six (6) months has expired since the receipt of notice and subsequently, Plaintiff is now free to file suit.

PARTIES

5. The Plaintiff in this action is:

(a) Amanda Few resides in the City of McAlester, Pittsburg County, State of Oklahoma.

6. The Defendant in this action is:

(a) The Choctaw Nation Health Center and is a government agency as that term is defined by the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*

Facts

7. On or about April 6, 2009, Amanda Few was admitted to the Choctaw Nation Health Center in Talihina, Oklahoma for a scheduled surgery and was given the wrong medication by a nurse prior to that surgery.

8. As a result, Amanda Few had respiratory compromise, nearly died, and nearly had an unnecessary and lengthy recovery.

Causes of Action

I. Res Ipsa Loquitur

9. Plaintiffs hereby incorporate paragraphs 1 through 8 above.

10. That on April 6, 2009, Amanda Few was incorrectly given a medication at the Choctaw Nation Health Center.

11. That Amanda Few suffered respiratory failure and nearly died.

12. That Amanda Few's respiratory failure was directly caused by events that were solely within the control of Defendant Choctaw Nation Health Center.

13. That Amanda Few's respiratory failure is not the type of injury that ordinarily occurs under the circumstances in the absence of negligence on the part of Defendant Choctaw Nation Health Center.

14. Wherefore, Plaintiff prays for any and all damages available to her by law, including but limited to, medical expenses, emotional and mental distress, physical suffering and pain, fear of death, and other unspecified damages.

15. Wherefore, Plaintiff prays damages for each item in an amount in excess of \$75,000.00.

II. Medical Malpractice-Choctaw Nation Health Center

16. Plaintiff hereby incorporates paragraphs 1 through 15 above.

17. That the Defendant, Choctaw Nation Health Center, held itself out as a hospital designed to exercise ordinary care and attention for its patients.

18. That Defendant, Choctaw Nation Health Center, owed a duty to Amanda Few to exercise ordinary care and attention that was appropriate to the physical and mental condition of Amanda Few.

19. That Defendant, Choctaw Nation Health Center, had a duty to Amanda Few to supervise the care rendered to her by its employees.

20. That Defendant, Choctaw Nation Health Center, is liable for any and all acts or omissions pled and proven by Plaintiff for its employees, nurses, and staff physicians based on respondeat superior.

21. That Defendant, Choctaw Nation Health Center, breached its duties of care and failed to meet the appropriate standard of care with regard to the above stated duties owed to Amanda Few by failing to properly administer appropriate medication, by failing to properly monitor Amanda Few, by failing to recognize Amanda Few's

respiratory distress in a timely basis, and failing to immediately and properly treat Amanda Few's respiratory compromise.

22. Wherefore, Plaintiffs pray for any and all damages available to her by law, including but limited to, medical expenses, emotional and mental distress, physical suffering and pain, fear of death, and other unspecified damages.

23. Wherefore, Plaintiff prays for damages for each item in an amount in excess of \$75,000.00.

Respectfully Submitted,

THE EDWARDS LAW FIRM

A handwritten signature in black ink, appearing to read 'Mark Edwards', is written over a horizontal line.

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